



IFW/B

PATENT

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being sent by regular United States mail in an envelope addressed to: Mail Stop Issue Fee, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on January 21, 2005.

William R. Allen

William R. Allen, Reg. No. 48,389

21 January 2005

Date

Applicant: Paul Francis Day Confirmation No.: 1599
Serial No.: 09/995,871
Filed: November 29, 2001
Examiner: Lyle Alexander
Group Art Unit: 1743
Title: **SAMPLE TUBES WITH FLUID-TIGHT LABELS**
(Formerly: **IMPROVED TUBES**)
Attorney Docket No.: SOMM-03

Cincinnati, Ohio 45202

January 21, 2005

Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

ADDITIONAL COMMENTS ON
STATEMENT OF REASONS FOR ALLOWANCE

Sir:

In reviewing the Comments on Statement of Reasons for Allowance submitted with the issue fee payment on January 18, 2005, Applicant's undersigned counsel has noted a typographical error in the third paragraph. Specifically, the fifth (5th) paragraph should be replaced by the following paragraph amended to add the word "not" as indicated below:

The Examiner refers to the "remarks of record" in the Statement of Reasons for Allowance. With specific regard to the Interview Summary mailed July 8, 2004, Applicant's

undersigned counsel would like to emphasize for the record that, despite statements made by the Applicant that "the prior art fails to teach permanent attachment of an end cap that contains the optically readable code," the allowed claims are not limited to permanent attachment of an end cap. In contrast, allowed independent claim 2 only recites that the end cap is "mounted to" the bottom of the tube. Allowed independent claim 37 does not recite an end cap and allowed independent claim 44 recites an end cap that has "a substantially fluid-tight seal" with a bottom portion of a tube portion. Therefore, independent claims 2, 37, and 44 are not limited to permanent attachment of an end cap. In fact, the Examiner's reasons for allowance state that the Examiner considered the end cap to be "removable."

If the Examiner disagrees with any of these comments, he is respectfully requested to provide further explanation on the record.

Applicant does not believe that any fees are due in connection with this submission. However, if such petition is due or any fees are necessary, the Commissioner may consider this to be a request for such and charge any necessary fees to deposit account 23-3000.

Respectfully submitted,
WOOD, HERRON & EVANS, L.L.P.

By: William R. Allen
William R. Allen
Reg. No. 48,389

2700 Carew Tower
Cincinnati, OH 45202
(513) 241-2324